

### **DETAILED ACTION**

Receipt is acknowledged of the amendment and response filed 09/07/2011.

The rejection under 35 USC 103(a) over Tija et al in view of Chen et al is withdrawn in view of applicant's remarks. In particular it is agreed that the teaching by Tija et al to have a maximum temperature of 60 C, and the lack of a grinding step clearly make the rejection improper.

It is further noted that the plasticizing step using ethanol has been deleted from the independent claim. Further, this step is an optional step. As such the title and Abstract should be amended to reflect this change.

The following rejection is maintained in this action. The rejection is modified to address applicant's statement concerning the optional steps of the instant method with regard to the optional and required steps of the method.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants set out a ration in claim 24(d), however it is indefinite as to what the ratio is referring to other than PLGA. The same ration is further limited in claim 33. Further clarification is required.

Further, applicant is claiming a method with an optional step (e), but states that steps (f) and (g) are required. when writing claim limitations, anything after the word "optionally" is considered optional. Therefore, it is suggested that the independent claim be rewritten to list the optional step last, with the stipulation that it should occur after the first grinding step and before extrusion.

### ***Response to Arguments***

Applicant's arguments filed 09/07/2011 have been fully considered but they are not persuasive.

Applicants argue that the ratio is not indefinite in that it refers to "untreated PLGA". The claims however, do not set this out. As such it is suggested the claims refer to "untreated PLGA" when referring to the ratio.

The following is a new rejection of the claims:

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 37 recites the limitation " plasticizing with alcohol" in claim 24. There is insufficient antecedent basis for this limitation in the claim. The plasticizing step has been deleted. As such the claims refer to a step that has no antecedent basis. Correction is required.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1617

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correction of the claims as suggested above would place the application into condition for allowance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS AZPURU whose telephone number is (571)272-0588. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fereydoun G. Sajjadi can be reached on (571) 272-3311. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1617

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/Carlos A. Azpuru/  
Primary Examiner, Art Unit 1617

Carlos A. Azpuru  
Primary Examiner  
Art Unit 1617

caz